

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

WILLIAM KEITH WININGEAR, et al,

Plaintiffs,

v.

Civil Action No. 2:12cv560

CITY OF NORFOLK, VIRGINIA,

Defendant.

NOTICE OF PENDING LAWSUIT TO RECOVER UNPAID OVERTIME WAGES

TO: Current or former employees of the City of Norfolk, Virginia who worked as hourly and/or non-exempt law enforcement officers at any time from October 11, 2009, until the present.

RE: Fair Labor Standards Act ("FLSA") lawsuit – claim for unpaid overtime and liquidated damages – against the City of Norfolk, Virginia

I. INTRODUCTION

The purpose of this Notice is to (1) inform you of the existence of a lawsuit; (2) advise you of how your rights may be affected by this lawsuit; and (3) instruct you on how to join this lawsuit, if you choose to do so. The Court takes no position on the merits of the suit at this time.

II. DESCRIPTION OF THE LAWSUIT

The lawsuit is filed against the City of Norfolk, Virginia (the "City") by William Keith Winingear and others (the "Plaintiffs") who worked for the City as law enforcement officers. The Plaintiffs allege that they were not paid overtime wages for certain worked to which they are entitled. The lawsuit seeks to recover damages for the last three years. In addition, the lawsuit seeks an equal amount as liquidated damages and attorney's fees. The City denies liability and asserts that all actual and potential plaintiffs were paid in accordance with the FLSA.

III. TO JOIN THIS LAWSUIT

If you are a current or former employee of the City of Norfolk who worked as a law enforcement officer at any time from October 11, 2009 to the present and wish to join this lawsuit, you may do so by filling out, signing, dating and mailing the attached *Consent to Become a Party Plaintiff* form to the Clerk of The Court within 90 days from the date of mailing of this Notice to you. The address of the Clerk of Court is as follows:

EXHIBIT 6

Mr. Fernando Galindo, Clerk
U.S. District Court for the Eastern District of Virginia
600 Granby Street
Norfolk, Virginia 23510

If you choose to join this lawsuit, you will be bound by the judgment. You will also be required to enter a reasonable attorney's fee agreement with class counsel in substantially the same form as those entered by the more than 390 officers who have joined this action. However, you are not required to join in this lawsuit, and if you do not join, you will not be bound by any judgment in the lawsuit. While this suit is proceeding, you may be required to provide information, appear for deposition, and/or testify in court.

IV. NO RETALIATION PERMITTED

FEDERAL LAW PROHIBITS THE CITY OF NORFOLK OR ANYONE ACTING ON THEIR BEHALF, FROM DISCHARGING YOU OR DISCRIMINATING AGAINST YOU FOR JOINING THIS LAWSUIT.

V. NO OPINION EXPRESSED AS TO MERITS OF THE CASE

There is no assurance at this time that any relief will be granted, nor if granted, the nature and amount of relief.

VI. ATTORNEYS INVOLVED IN SUIT

The names and addresses of Plaintiffs' attorneys are:

James H. Shoemaker, Jr., VSB No. 33148
Jason E. Messersmith, VSB No. 77075
Patricia A. Melochick, VSB No. 80694
Patten, Wornom, Hatten & Diamonstein, L.C.
12350 Jefferson Avenue, Suite 300
Newport News, Virginia 23602
Telephone: (757) 223-4560

Richard J. Serpe, VSB No. 33340
Cindra Dowd, VSB No. 33819
Law Offices of Richard J. Serpe, P.C.
Crown Center, Suite 310
580 East Main Street
Norfolk, Virginia 23510-2322
Telephone: (757) 233-0009

The name and address of the City of Norfolk's attorney is:

Andrew Fox, VSB No. 68154
Office of the City Attorney
810 Union Street, Room 900
Norfolk, Virginia 23510
Telephone: (757) 664-4529

If you have any questions or want further information, you may contact Plaintiffs' attorney, James H. Shoemaker, Jr., at 757-223-4560. **DO NOT CALL THE CLERK OF COURT.**

CONSENT TO BECOME A PARTY PLAINTIFF

I, _____, hereby consent to become a party plaintiff in that action styled *William Keith Winingear, et al v. City of Norfolk, Civil Action No. 2:12cv560* which shall be litigated in the United States District Court for the Eastern District of Virginia. This action seeks full payment of overtime wages which has been denied to me and to others. I declare under penalty of perjury that, to the best of my knowledge and belief, I have worked hours for the Defendant without being fully compensated in accordance with applicable law.

I am represented in this action by the Law Offices of Richard J. Serpe, P.C. and Patten, Wornom, Hatten, & Diamonstein, L.C. and request that all communications concerning this action be directed to them.

Date: _____

Signature

Print Name

Address and phone number